

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

BRANDEN MCAFEE,

Plaintiff,

Case No. 1:24-cv-474

v.

JUDGE DOUGLAS R. COLE
Magistrate Judge Bowman

IC SYSTEM, INC.,

Defendant.

ORDER

Before the Court is Magistrate Judge Bowman’s Report and Recommendation (R&R, Doc. 26),¹ advising the Court to deny Plaintiff Branden McAfee’s Motion for Leave to File His First Amended Complaint (Doc. 25). Specifically, the R&R highlights that the Court, in a previous Opinion and Order, dismissed McAfee’s Complaint. (Doc. 26, #175; *see also* Doc. 23 (dismissing McAfee’s Complaint)). In light of McAfee’s case being closed, (*see* Doc. 24), the Magistrate Judge concluded that McAfee’s motion was an untimely and procedurally improper post-judgment motion, as the time to move for leave to file an amended complaint had passed. (Doc. 26, #175–76).

The Court agrees that McAfee’s motion to amend is procedurally improper. “Following entry of final judgment, a party may not seek to amend their complaint

¹ In her R&R, Magistrate Judge Bowman noted that while Magistrate Judges ordinarily handle non-dispositive motions (like the motion for leave to amend at issue here) by Order without issuing an R&R, they have limited authority to rule on post-judgment motions. (Doc. 26, #175 n.1). Given that limitation, Magistrate Judge Bowman ruled on McAfee’s post-judgment motion to amend by R&R (rather than by Order) out of an “abundance of caution.” (*Id.*).

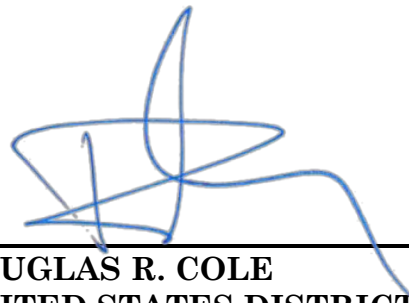
without first moving to alter, set aside or vacate judgment pursuant to either Rule 59 or Rule 60 of the Federal Rules of Civil Procedure.” *In re Ferro Corp. Derivative Litig.*, 511 F.3d 611, 624 (6th Cir. 2008) (citation omitted); *see also Vontz v. Rochowiak*, No. 2:20-cv-11339, 2020 WL 4431419, at *1 (E.D. Mich. July 31, 2020). McAfee made no such motion here.² The Court therefore lacks the power to grant McAfee’s motion to amend his Complaint under Federal Rule of Civil Procedure 15(a). *In re Ferro Corp.*, 511 F.3d at 624.

Accordingly, the Court **ADOPTS** the R&R (Doc. 26) and **DENIES** McAfee’s Motion for Leave to File His First Amended Complaint (Doc. 25). This case remains closed.

SO ORDERED.

January 8, 2025

DATE


A handwritten signature in blue ink, appearing to read 'Douglas R. Cole', is written over a horizontal line.

DOUGLAS R. COLE
UNITED STATES DISTRICT JUDGE

² What’s more, McAfee has already refiled his lawsuit under a new case number. (*See Compl., McAfee v. IC Sys., Inc.*, No. 1:24-cv-715 (S.D. Ohio Dec. 13, 2024), Doc. 1).